

CHAPTER 25 - Relinquishments

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CHAPTER 25 - Relinquishments

ARTICLE 1 - General

Streets & Highways Code

Section 73 of the Streets and Highways (S&H) Code requires that the "highway" must be placed in a "state of good repair" (which includes maintenance as defined in Section 27, S&H Code) prior to relinquishment of routes superseded by relocation. On State highways deleted by legislative enactment, Caltrans places the highway in a "state of good repair" prior to the date the relinquishment becomes effective. Section 73 also specifies that Caltrans is not obligated for widening, new construction, or for major reconstruction, unless specifically directed by the CTC. As defined in Section 23, S&H Code, "highway" includes bridges, culverts, curbs, drains and all works incidental to highway construction, improvement, and maintenance.

Responsibilities

Projects superseding an existing highway by relocation should include specific measures for placing the existing highway in a "state of good repair" for relinquishment. Major widening of the superseded highway or other improvements (except safety work) that result in upgrading or betterment should not be considered; however, the city or county may elect to pay for improvements whose costs exceed what is required to place the existing facility in a "state of good repair."

At the earliest possible time during the scoping process, the district and local agency should come to a clear understanding of each party's financial responsibilities. When the district and the local agency cannot agree on what constitutes a "state of good repair," the PD Coordinator should be involved in the matter. The Design and Local Program (DLP) will process a report to the CTC and a hearing will usually be scheduled at a regular monthly meeting of the CTC.

ARTICLE 2 - Policy

Early Action

Relinquishments are to be completed as soon as possible after construction of a replacement facility in order to conserve maintenance funds and minimize potential legal liabilities.

Programming

Costs for the proposed relinquishment work should be covered in the PSR and the PR for the relocation project that supersedes the existing highway. The programming of the relocation project should include funds needed for any relinquishment work. A PSSR needs to be prepared if the relocation PR does not adequately define the scope, cost, and schedule of the relinquishment work. A PSSR would be prepared also for a State highway deleted by legislative enactment.

Justification of Work

Rehabilitation work proposed as a condition of relinquishment must be justified. This includes corrective work (if any) on bridges, culverts, curbs, drains, pavement, pedestrian facilities, or other facilities that are part of the highway in order to place the facility into a maintainable condition. In no case is the pavement rehabilitation design life to be in excess of 10 years.

ARTICLE 3 - Procedures

Scoping

As early as possible in the project scoping process negotiations with the local agency should begin. At that early stage, it is important that the local agency has a clear understanding of each party's responsibilities related to relinquishment.

A PSR, PSSR, or PR should include specific recommendations for placing the existing highway in a state of good repair prior to relinquishment. For some projects, the completion of construction may be a number of years away and it may be too early to determine the scope and strategy of the pavement rehabilitation work that will be required for relinquishment. Nevertheless, the report for the relocation project should cover the anticipated relinquishment work and estimated costs, to the extent possible. These costs are important for programming purposes. Also see Chapter 23, Article 1, for route adoption considerations for cases where a route adoption is used to supersede an existing facility.

Pavement Deflection Study

Prior to completion of the PSSR, PSR, or PR on projects involving rehabilitation of distressed asphalt concrete pavement, the Pavement Consultant Services Branch, of the Office of Materials Engineering and Testing Services, of the Engineering Service Center, should be requested to perform a pavement deflection study. This study is performed to determine the need for an overlay and/or other pavement rehabilitation treatment. It will be used for project scope and cost estimating purposes.

For proper project scoping and cost estimating, the pavement deflection study should be no more than 1.5 years old. In those instances where relinquishment work will not be

undertaken for a number of years, a follow-up pavement deflection study must be performed no more than 12 months prior to construction of the relinquishment project. This is done to determine if pavement deterioration occurring since the previous study is significant enough to warrant a new rehabilitation strategy. If a new strategy is required for the repair work, a new agreement may need to be negotiated with the local agency. If the new strategy substantially increases the final scope and costs from that anticipated in the original PSSR or PR, a supplemental PR or a new PSSR must be prepared.

Joint Field Review

The deflection study and resultant recommendations are to be based on truck traffic projections that consider both the diversion of through traffic, as well as local traffic projections. Such projections must be in agreement with the local/regional General Plan for land use. Following receipt of the deflection study recommendations, and before completion of the PSSR, PSR, or PR, a joint field review with the involved city or county should be conducted to eliminate any misunderstandings and to resolve any differences.

Where the deflection study finds that there is no need for pavement rehabilitation, an overlay should not be included in the project. Suitable surface sealing may be included if warranted by the current preventive maintenance program.

Funding

Adherence to the 10-year pavement rehabilitation design criteria may make such work eligible for federal funding. Major widening or other improvements (except safety work) included to obtain federal aid, should not be considered if it would result in upgrading or betterment. In these cases, the city or county may elect to pay the portion of the cost over and above that which is justified in order to upgrade the facility geometrically or structurally (a design for more than a 10-year life).

CTC Resolution

Section 73, S&H Code, requires that relinquishment of roads, streets or highways must be made by a CTC resolution. Relinquishment action is required by Caltrans when (1) a route is superseded by relocation (the CTC route adoption resolution contains a clause that specifies the relinquishment action), (2) a route location is deleted from the State Highway System by legislative enactment, or (3) when new construction or improvements to the local system are made by a construction contract.

Freeway Agreements, Relinquishment of Local Roads

A standard Freeway Agreement usually identifies for relinquishment those local roads constructed as part of a freeway project. If a Freeway Agreement is not involved or does not provide for all project work on local roads, another agreement or a resolution adopted by the local agency is required. This agreement or resolution is the basis for relinquishment action by the CTC. When a local agency adopts a resolution that consents to accepting the facility, a separate freeway agreement is not required for

purposes of the relinquishment. In both cases preparation of the relinquishment package for CTC action is the responsibility of the Right of Way Engineering function. Instructions on relinquishments are contained in the *Right of Way Manual*. However, responsibility for scheduling CTC action has been transferred to the DLP.

Request for CTC Action

Requests for relinquishment resolutions must be forwarded to Chief of the Engineering Service Center (ESC), Office of Engineering Technology (OET) four months prior to the anticipated completion date of all construction projects involving transfer of superseded State highways. This will permit one month for processing and mailing of the 90-day written notice of intention to relinquish, as required by statute.

If the city or county protests in writing, special efforts should be made to resolve any issues raised. Any major issues with the city or county should be resolved before the start of construction, during either the plan preparation stage or the joint field review of the existing highway.

Deletion of a Route by Legislative Enactment

When any portion of a State highway has been deleted from the State Highway System by legislative enactment, such relinquishment becomes effective upon the first day of the next calendar year or fiscal year, whichever first occurs after the effective date of the legislative enactment.

The CTC relinquishes the portion of existing State highway to a county or city. The responsibility for the submittal belongs to the Caltrans District Right of Way Engineering function. In addition, a project may need to be developed to place the highway in a "state of good repair" prior to the date the relinquishment becomes effective.

Lack of Local Agency Agreement

Relinquishments should be elevated to DLP when the district is not able to resolve a disagreement with the local agency. The DLP Program Manager should be notified by memorandum if (1) the district and the local agency have exhausted all reasonable efforts to agree on the "state of good repair" features included in the PSR or PR, or (2) if there is a protest from the 90-day notice that the highway is not needed for public use and should be vacated, or (3) if there are other disagreements subsequent to Report approval. All pertinent facts regarding negotiations, as well as the district's recommendations for action to resolve the issues, should be included in the memorandum. Similar notification should be provided when there is a backlog of relinquishments in the district.

Where the requests of the protesting party can not be reasonably accommodated and the relinquishment is ready for submittal to the CTC, DLP will process a Caltrans report on the matter to the CTC. In some circumstances, this would include submitting a relinquishment for CTC approval with a transfer of funds equal to the cost of a State

project to provide a state of good repair in lieu of an actual State administered construction project. The procedures for processing difficult relinquishments are discussed in Article 5 and Article 6.

ARTICLE 4 - Collateral Facilities

General

Most relinquishment actions involve the relinquishment of collateral facilities that were acquired or built as part of a project. These would include frontage roads, relocated streets, new streets to maintain service, cul-de-sac adjustments, and bicycle and pedestrian trails.

Collateral facilities are included in the contract plans. Local agencies participate in the design of these facilities since they will own and operate them after construction.

Use Formal Agreement or Resolution

Collateral facilities are relinquished pursuant to an agreement. Normally, a Freeway Agreement or a Controlled Access Highway Agreement is used to show the facilities to be relinquished. If these agreements do not adequately show the facilities to be relinquished, then another agreement needs to be negotiated or a resolution should be obtained from the local agency.

ARTICLE 5 - Local Agency Protests

When a State highway is superseded by relocation, Section 73 of the Streets and Highways (S&H) Code provides for CTC relinquishment over a protest only if the protesting local agency is given an opportunity to express concerns at a public hearing before the CTC. Caltrans procedure is to submit a relinquishment to the CTC when the local agency objects for any reason. The local agency objection to a relinquishment is usually based on Caltrans denial of requested improvements. Caltrans denial of improvements is in accordance with S&H Code Section 73 that specifically prohibits facility improvements by Caltrans. However, Section 73 does require a “state of good repair” as defined in statute. The Caltrans procedure for processing difficult relinquishments also applies to collateral facilities covered by agreement and to highways deleted from the State highway system by legislative enactment.

Protests to Relinquishment Need Study

When a local agency protests a relinquishment or when a delay is encountered (including backlogged actions), the result may be that Caltrans unnecessarily keeps the facility. To prevent a large inventory of unresolved relinquishments and to provide a process for

timely CTC action, the nature of the protest or the delay must be examined to assure a justifiable Department position in resolving the problem.

Review and Referral to DLP

To thoroughly evaluate the facts, the District Director conducts a comprehensive review, and if necessary, the relinquishment is referred to the DLP.

The procedures to carry out the process are discussed in detail in Article 6. The objective is to make recommendations to eliminate any relinquishment backlog, and to have an efficient process in place for handling protests. The goal is to get CTC approval and recording of the relinquishment within one year from the usual time of initiating a relinquishment action. Note that all protests must be identified and reviewed prior to acceptance of the project from the contractor.

ARTICLE 6 - Referral, Decision and CTC Hearing

District Director Review

When a local agency protests a proposed relinquishment or a delay is encountered beyond the normal scheduled date for CTC action, the District Director must review the facts, issues, and Caltrans recommendation. Advice may be provided by District Division Chiefs of Right of Way, Design, and other functions with responsibility relative to the action. A meeting with the Local Agency may be necessary.

The review provides the District Director an opportunity for resolving any impasse that may have developed. The review must determine, but is not limited to, the following:

- The exact nature of the protest and alternatives suggested by the local agency. The district should request the local agency to submit their protest in writing. If the local agency requests improvements, appropriate plans and details should accompany the protest submittal to enable preparation of a reasonable Caltrans cost estimate.
- When delays are due to reasons other than local agency protest (litigation involving R/W, hazardous waste cleanup, etc.), describe the facts and provide the estimated date the delaying issue will be resolved.
- Reasonable alternatives (with cost estimates) that might satisfy the local agency or resolve the delay.
- The recommended Caltrans position to present to the CTC.

District Directors must ensure that appropriate personnel deal with the local agency throughout the process. District right of way and design functions must work cooperatively, beginning with local agency negotiations at project initiation.

Local Agency Contact

At the time of project initiation, an attempt is made to reasonably accommodate the concerns of the local agency through contact with the agency decision makers. A solution to a protest or potential protest is preferable at this time.

When the local agency is not satisfied with the district's counterproposals and continues to protest the relinquishment, the district should obtain the objection in writing from the local agency if a written one has not yet been submitted. The situation should be documented with recommendations for solution in a report that is submitted to the District Director for review and a decision. The district will notify DLP, Attention: Relinquishment Protest, within 3 working days after an unsuccessful outcome of the review by the District Director.

Relinquishment Information Sheet

The notification to the DLP will be a Relinquishment Information Sheet (RIS), approved and signed by the Project Manager. A copy must be sent to the Project Development coordinator as well as the Chief of the Office of Engineering Technology (OET), Engineering Service Center (ESC). The RIS must be sufficiently complete to enable the Program Manager of DLP to make an informed decision and a justifiable recommendation to forward to the CTC. Appendix JJ contains a complete outline of the required data needed for a draft RIS.

Project Development Review

When the RIS is received by DLP, the Project Development (PD) Coordinator will meet with the responsible District Design and Right of Way Engineering staff to obtain an understanding of the current situation concerning the relinquishment. The PD Coordinator will provide the Program Manager the current status of the relinquishment.

The DLP Program Manager, after consultation with the PD Coordinator, the Right of Way Program Manager and the OET-ESC, may take one of the following actions:

- Return the relinquishment to the district for additional rehabilitation or maintenance work, or
- Forward the relinquishment to the CTC for action, or
- Forward the protest to the CTC, requesting a public hearing for the local agency.

Submittal to CTC Without Additional Work

If the DLP Program Manager recommends sending the relinquishment for CTC approval without any additional construction work on the facility, the relinquishment package prepared by the ESC-OET and the DLP recommendation letter are forwarded for inclusion in the CTC briefing book. The RIS and DLP recommendation letter are furnished to the district also. The date selected for CTC presentation depends on the state of completeness of the District's initial relinquishment submittal, on when DLP was notified of the problem, and on the amount of preparation time needed for the CTC report.

Submittal to CTC for Public Hearing

When a protest hearing is provided to a local agency at a CTC meeting, the local agency should be informed by the District of the specific CTC procedures to allow time for agency representatives to arrange for engineering or legal assistance. This is in advance of the formal written notice required by Section 73, S&H Code. The ESC-OET is responsible for sending a notice by certified letter 15 days before the hearing to ensure the local agency has received a 10-days written notice. The contact with the local agency provides a final opportunity for an agreement on the relinquishment. A copy of the report that goes to the CTC is furnished to the local agency with this notification.

Preparations for CTC Hearing

DLP submits to the CTC the relinquishment package prepared by the ESC-OET and the DLP recommendation letter for inclusion in the CTC briefing book. The date selected for CTC presentation depends on the state of completeness of the District's initial relinquishment submittal, on when DLP was notified of the problem, and on the amount preparation time needed for the CTC report. The CTC meeting will usually be attended by one or more individuals to respond to CTC questions on specific issues.

Public Hearing Provided at CTC Meeting

Depending on specific issues, appropriate District and Headquarters representatives will make the presentation to the CTC. The presentation is usually brief, five to ten minutes in length. The local agency is given their public hearing after the presentation by Caltrans. The Project Manager will be responsible for preparation of wall maps or displays.

The CTC decision may direct Caltrans to do additional work on the facility, or may proceed with the relinquishment action, or may direct some other action.